

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Caleb Gretton

Location: South side of North 1st Street approximately 400 feet easterly of Grand Boulevard

Gross Acreage: 24.9

Net Acreage: 24.9

Net Density: n/a

Existing Zoning: R-M Multi-Family
Residential; CN Neighborhood
Commercial

Existing Use: Golf Driving Range and Clubhouse of which the previous Conditional
Use Permit has expired as of June 28, 2002.

Proposed Zoning: No change

Proposed Use: Continued use of the existing Golf Driving Range and Clubhouse

GENERAL PLAN

Completed by: CG

Land Use/Transportation Diagram Designation
Combined Industrial/Commercial

Project Conformance:
☐ Yes ☐ No
☒ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: CG

North: Medium Density Residential and Elementary School

R-M Residential and A(PD)Planned
Development

East: Industrial

A(PD) Planned Development

South: Coyote Creek and Mobile Home Park

R-MH Residential Mobile Home Park

West: Commercial

CN Neighborhood Commercial

ENVIRONMENTAL STATUS

Completed by: CG

☐ Environmental Impact Report adopted on November 12, 1987
☐ Negative Declaration circulated on
☒ Negative Declaration adopted on July 11, 1994

☐ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: CG

Annexation Title: City of Alviso Consolidation

Date: March 12, 1968

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval
☒ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☒ Action
☐ Recommendation

OWNER

Sainte Claire Corporation
James Bocardo
P.O. Box 280

APPLICANT/ CONTACT

James Eller
303 Almaden Blvd, 5th Floor
San José, CA 95110

San José, CA 95002		
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PUBLIC AGENCY COMMENTS RECEIVED

Completed by: CG

Department of Public Works

See Attached

Other Departments and Agencies

Santa Clara Valley Water District

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, James Eller on behalf of Pin High Golf Range, is requesting a Conditional Use Permit to continue the operation of an existing three hole golf course, chipping greens, a driving range and a clubhouse on a 24.9 acre site in the CN Neighborhood Commercial and R-M Multi-Family Residential Zoning Districts. Golf clubs are conditional uses in both the R-M Residential and CN Commercial Zoning Districts.

The Golf Club has been previously permitted twice with “time conditioned” Conditional Use Permits, File No. CP93-015, which expired on August 11, 1998 and File No. CP98-040, which expired on June 28, 2002. Site improvements were constructed in compliance with the first Conditional Use Permit. The golf club and associated facilities include a three-hole golf course, driving range, chipping and putting greens, a clubhouse and a small parking lot. The three holes and driving range were designed to minimize possible safety problems from errant golf balls on the adjacent public right-of-way and adjacent properties. The project included fencing and netting which ranges in height from 20 to 50 feet to further minimize potential impacts. Because the R-M Residential and CN Neighborhood Commercial Zoning Districts allow a maximum height of 30 feet and 50 feet respectively, a Variance (File No. V93-015) was issued to allow construction of the fencing and netting.

Public access to the site is from a driveway on North 1st Street. A separate entrance off of Moffat Street is used for golf course maintenance vehicles and equipment.

Surrounding land uses include an elementary school, commercial, and residential uses to the north, vacant land to the east, vacant industrial land to the south, and a residential mobile home park to the west across Coyote Creek.

ENVIRONMENTAL REVIEW

An Initial Study was prepared for this project and a Negative Declaration was adopted by the Director of Planning on July 20, 1993. The proposed project remains the same as was reviewed in 1993 and the analysis indicates no additional potential impacts not previously addressed in the Negative Declaration.

GENERAL PLAN CONFORMANCE

The proposed use is generally not consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial, which sets forth the long-term land use for the site. A golf center use would typically be consistent with property with a General Plan designation of Private Recreation. The Combined Industrial/Commercial designation is intended to allow industrial or commercial uses of a greater intensity than the proposed continuation of the golf center. The subject site is located within the Alviso Master Plan area. The Plan includes policies that allow existing uses to remain as interim uses despite non-conformance to the General Plan, and also provides for maintenance and some minor expansion of such existing, non-conforming uses.

ANALYSIS

The primary issues associated with the proposed project is the City's requirement for an Irrevocable Offer of Dedication of public right-of-way along the North 1st Street frontage as a condition of the Conditional Use Permit in exchange for on-going approval for this "temporary" use.

Required Public Improvements

The applicant is being required to dedicate the project's frontage along North 1st Street to its planned right-of-way width of 80 feet to the satisfaction of the Director of Public Works. After review of the project, Staff has determined that it is appropriate to require these improvements as a condition for allowing the continued golf course use at this site. Staff has reached this determination based on the fact that this "temporary use" has obtained consecutive approvals to operate for the last ten (10) years, and is seeking additional approvals for extended use of the property.

The City has agreed to accept frontage dedication without improvements with the provision that the new Permit would have a five (5) year time limit period. The dedication requirement attached to a five-year time limit would allow the City to construct the improvements itself, if the City decides to proceed with the improvements of North 1st Street within the same five-year period.

Permit History

The original CUP, allowing operation of the golf center, was issued on August 3, 1993, with a five-year time limit. The CUP was conditioned with a time limit because the project was described as a temporary/interim use. This time limit not only was necessary to assure General Plan conformance, but also to provide an opportunity for planning staff to review the appropriateness of requiring full public right-of-way improvements along North 1st Street, which were not being required at that time. The original CUP included a provision for renewal, provided that an application was filed between 90 and 180 calendar days prior to the permit's expiration. A renewal application was not filed within the time period.

On September 3, 1998, the operator of the facility filed for a second Conditional Use Permit (File No. CP98-040) to allow the continued operation of the golf center. Staff initially indicated that the applicant would be required to dedicate and construct improvements for the street frontage along North 1st Street. The operator of the facility indicated that the business did not generate sufficient revenue to fund the required street improvements. In response staff agreed to drop the frontage improvement requirement provided that the new Permit include an irrevocable offer of dedication, and a time limit so that the use could still be considered temporary. At the June 28, 2000 Planning Commission hearing, the applicant indicated that they would not be able to make the irrevocable offer of dedication. The Commission approved the requested CUP without this requirement but reduced its duration to two years with the intent that this two year time limit would allow

the applicant adequate time to find a new site for relocation or to prepare to make the required street dedication.

Conclusion

The time condition of the initial Permit was considered necessary for the project to be in conformance with the General Plan and to allow the City to require street frontage improvements at a future date. Subsequent development within the Alviso area indicates that there is a need for this street improvement. Staff recommends that the Planning Commission approve the requested Conditional Use Permit with the condition requiring an irrevocable offer of dedication and a time limit condition of five years.

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to answer questions on the project from the public. An extensive public outreach program was conducted as part of the preparation of the Alviso master Plan in 1998. The golf course was found to be consistent with the public interest through this outreach program.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution:

Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The project site is located in the R-M Residential and CN Neighborhood Commercial Zoning District.
2. This site has a designation of Combined Industrial/Commercial in the San José 2020 General Plan Land Use/Transportation Diagram.
3. The project consists of a golf club and associated facilities. These facilities include a three-hole golf course, chipping and putting greens, a driving range and a clubhouse.
4. A Negative Declaration has been adopted for this project which indicates that certain mitigation measures will be incorporated into the project to prevent the occurrence of any significant adverse effect on the environment.
5. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
6. The proposed project includes site design measures including fencing/netting to catch errant golf balls.
7. Significant landscaping is included in the project.
8. The applicant will be required to make dedication and construct public improvements along North 1st Street to the satisfaction of the Director of Public Works.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project, with conditions recommended by staff, has fencing/netting, landscaping, and lighting to mitigate potential interface and safety impacts to acceptable levels.
5. The proposed project, with conditions recommended by staff, will require the project developer to inspect and repair perimeter fencing on a regular basis to ensure that errant golf balls remain on the subject site.
6. The proposed project, with conditions recommended by staff, will require the project developer to make an Irrevocable Offer of Dedication along North 1st Street to the satisfaction of the Director of Public Works.

Finally, based upon the above-stated findings and subject to the condition set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Submittal Prior to Recordation/Release.** The following items must be submitted for review and approval for the Director of Public Works prior to the recordation of a Certificate of Permit by the County Recorder and /or prior to release of this Permit to Department of Public Works or the Building Division. *If these items are not submitted within 60 days of the adoption of the Resolution, this Permit will automatically expire regardless of any other expiration dates contained within this Permit.*
 - a. A parcel map showing all required street dedications and improvements.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and application for such approval in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand to meet or exceed the capacity of the San José-Santa Clara Water Pollution Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay region. Substantive conditions designed to decrease sanitary swage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to the approved development plans entitled, "Conditional Use Permit Pin High Range," received December 05, 2002, on file with the Planning Department and to the San José Building Code (San José Municipal Code, title 17, Chapter 17.04).
3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and

maintained so that no light sources is visible from outside of the property. Electroliers shall not exceed 25 feet above grade.

5. **Refuse.** All trash areas shall be effectively screened from view, covered and maintained in an orderly state. No outdoor storage is allowed/permitted unless designated on approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
6. **Colors and Materials.** All colors and materials are to be those specified on the approved plan set.
7. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
8. **Roof Equipment.** All roof equipment shall be screened from view.
9. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-06800) to the satisfaction of the Director of Public Works:
 - a. *Street Improvements.*
 - 1) Prior to the approval of this Conditional Use Permit, the applicant shall provide an Irrevocable Offer of Dedication for right-of-way along the North 1st Street frontage to its ultimate right-of-way width of 80 feet, to the satisfaction of the Director of Public Works.
 - 2) Provide an Environmental Assessment of Reconnaissance which address the possibility of toxic contamination within the area offered for dedication.
9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP02-075, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
10. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
11. **Fencing.** Lock boxed with manual release shall be installed at all gates. All existing barbed wire shall be removed from fencing.
12. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning

13. **Filter Inlet Inserts.** Within 60 days of approval of this Permit, the project developer shall install filter inlet inserts in all storm drainage inlets and provide a written report to the satisfaction of the Director of Planning verifying installation of the filters. These Filters shall be installed, maintained and replaced by a qualified consultant hired by the property owner. Copies of all inspection and maintenance records shall be provided to the City upon request.
14. **Maintenance Program.** The project developer shall implement a maintenance program for these filter inlet inserts that includes, but is not limited to, the following measures:
 - a. *Installation.* The filter inlet inserts shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintained by the project developer and subsequent property owners.
 - b. *Maintenance Record.* The property owner must keep a record available for inspection on the project site of all inspection and maintenance of the filter inlet inserts.
 - c. *Regular Sweeping.* Paved surfaces subject to runoff should be swept regularly during dry periods to remove dirt, silt, and other loose debris.
 - d. *Regular Inspections.* The filter inlet inserts shall be inspected monthly between September and April, and absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.
 - e. *Replacement of Absorbent Material.* The absorbent material shall be replaced by a qualified individual in conformance with the manufacturer's specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.
 - f. *Disposal of Used Material.* Used absorbent material shall be disposed of in conformance with all applicable local, state and federal regulations.
 - g. *Replenishment of Absorbent Materials Supply.* The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent plus a reserve to handle emergencies.
15. **Fire Flow.** Required fire flow or the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
16. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
17. **Pavement Sealant.** The applicant shall apply sealant to the pavement of all vehicle storage areas as necessary to provide an impervious surface. The pavement shall be inspected annually by a Civil Engineer and maintenance shall be performed as necessary to ensure an impervious surface. Records of the inspections and maintenance activities shall be maintained on the site and available for inspection by City Staff.

18. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or

who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

3. **Installation of Improvements.** All facilities on the project site shall be brought into compliance with all applicable Permit conditions and City Code requirements within 30 days of permit approval.

4. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five years from the date of this Permit.

4. **Renewal.** The permit holder may seek renewal of time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director of Planning. In order to be timely, an application for renewal must be filed more than 90 calendar days but not less than 180 calendar days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.

PLEASE NOTE THAT THIS CONDITIONAL USE PERMIT HAS BEEN GRANTED FOR A PERIOD OF FIVE (5) YEARS ONLY. YOU ARE BEING SPECIFICALLY AND SEPARATELY ADVISED OF THIS TIME LIMITATION SO THAT YOU WILL CONSIDER THIS TIME LIMITATION IN YOUR DECISION TO ACCEPT THIS PERMIT OR AS YOU MAKE ANY INVESTMENT DECISION RELATED TO THIS PROPERTY.